IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 343 of 2004 (M/B)

Tarun Bisht S/o Late Sri H.C. Bisht,
R/o 5/356, Malla Gorakhpur,
Haldwani, District Nainital. ……. Petitioner

Versus

Union of India,
Through Secretary,
Ministry of Urban Development,
Govt. of India, Nirman Bhawan,
New Delhi and 5 others. …….. Respondents

Mr. Manoj Tiwari, Advocate for the petitioner.
None for the respondents.

JUDGMENT
Coram: Hon. Rajeev Gupta, C.J.
Hon. Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Manoj Tiwari, Advocate for the petitioner.

None for the respondents.

Arguments heard.

2. Petitioner Tarun Bisht, who claims himself to be a registered Class 'D' Civil Contractor in Public Works Departments of the State of Uttaranchal, has filed this writ petition for the following reliefs:

> "A. Issue a writ, order or direction in the nature of mandamus directing the condition contained in Para 1(i) of the office memo dated 8.2.2000 (Annexure No. 5) as arbitrary and illegal.
>
> B. Issue as writ order or diction in the nature of mandamus restraining the Respondents from making any artificial classification amongst contractors on the basis of their registration.
>
> C. Issue any other writ order or direction which this Hon'ble Court may deem fit and proper in the circumstances of the case.
>
> D. Award the cost of the Writ Petition in favour of the petitioner."

3. The petitioner's grievance is against the clause contained in Annexure 5, whereby for the works estimated to cost up to

Rs. 2 crores, sale of tenders was restricted to the contractors registered with CPWD only.

4. In the counter affidavit filed on behalf of the respondents, the above clause is sought to be justified on the following averments in para 7:

> "7……..
> The policy is formulated after considering in depth all the pros and cons at the highest level. As is evident from the letter No. 30(I)/96/SE(C&M) 2002/1584 dt. 9.12.2003 issued by the Director General of Works, CPWD, New Delhi annexed herewith as ANNEXURE CA 1 to this affidavit that the department has given ample opportunity to all the contractors registered in other departments but not in CPWD, to get themselves registered in CPWD also by extending the time limit again and again spanning over a period of 3 years. Hence, this is neither a sudden change nor a behind the curtain operation done secretly which can be construed to benefit one and harm another. Hence the charge of the petitioner that it was done under the pressure of CPWD contractors is baseless."

5. Admittedly, the petitioner never applied for registration with CPWD. If the petitioner is really keen to execute contracts for CPWD, nothing prevented him from getting himself registered with CPWD and to overcome the condition aggrieved whereof he has filed this writ petition.

6. That apart, we do not find any illegality or arbitrariness in the above condition which restricts the sale of tenders for the works estimated to cost up to Rs. 2 crores to the contractors registered with CPWD as the said policy was formulated at the highest level of the Department on the basis of their past experience of the local contractors.

7. The writ petition, therefore, is liable to the dismissed and is, hereby, dismissed.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**
27.04.2006 **27.04.2006**

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